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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/617,825

07/17/2000

Andrea Drei

7759

23413

7590

02/13/2006

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EXAMINER

TSAI, HENRY

ART UNIT

PAPER NUMBER

2181

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/617,825	Applicant(s) DREI, ANDREA	
	Examiner Henry W.H. Tsai	Art Unit 2181	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/27/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- | | |
|---|--|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Reissue Applications

1. In accordance with Federal Register, Vol. 69, 9/21/04, 37 CFR 1.178 is amended to eliminate the requirement of physical surrender of the original letters patent (i.e., the "ribbon copy" of the original patent) in a reissue application (See comments at pages 56521-56522).

2. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

3. Claims 1-34 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in

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this application, arose without any deceptive intention on the part of the applicant."

Allowable Subject Matter

4. As set forth in the previous Office Action, the following is a statement of reasons for the indication of allowable subject matter: Werkmeister et al. (3,582,000) is the closest cited reference. However, Werkmeister et al. does not teach or fairly suggested that the supporting elements to support a bar released from the system are slidable (in claim 1); and the bar pusher being actuatable and lockable between an offset position and a position where the bar pusher is aligned with the bar deposited on the first guide when the carriage is in the final position (in claim 8, and claims 19 and 27 recite the corresponding limitations).

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Response to Amendment

5. Applicant's response filed 1/27/06 have been fully considered but the application is still not in condition for allowance.

Applicant argue that "Applicant respectfully notes that the quoted MPEP section uses the suggestive term "may" to imply that the provided language can optionally be used in a reissue declaration but is not required. That is, other language may be accepted, such as that contained in Applicant's original reissue declaration. Thus, it is submitted that Applicant's reissue declaration satisfies the provisions of 37 C.F.R. §1.175 and MPEP §1414 because the declaration indicates the non-deceptive nature of errors corrected by the reissue application occurring up to execution of the declaration" (page 2, lines 20-26).

Examiner realizes the situation. However, Applicant's original reissue declaration was mailed on July 17, 2000 and the claims have been amended on 8/16/01, 1/3/02, 5/5/03, 2/24/04, and 7/8/05 correspondingly. All amendments are after the mailing date of Applicant's original reissue declaration. As set forth above, in accordance with 37 CFR 1.175(b)(1), a supplemental

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reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Regarding art rejections, all independent claims (1, 8, 19, and 27) comprise the allowable subject matter as set forth above. However, claims 1-34 are still rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175.

Conclusion

6. This is a continuation of applicant's earlier Application No. 09/617,825. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

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action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Henry Tsai whose telephone number is (571) 272-4176. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, Kim Huynh, can be reached on (571) 272-4147. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to **the TC central telephone number, 571-272-2100.**

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8. In order to reduce pendency and avoid potential delays, Group 2100 is encouraging FAXing of responses to Office actions directly into **the Group at fax number: 571-273-8300**. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 2100 will be promptly forward to the examiner.



HENRY W. H. TSAI
PRIMARY EXAMINE^R

February 5, 2006